Workforce Development Board

Tompkins County Workforce Development

One Stop Operations and Oversight Committee

TC Workforce Development Board Conference Room
171 E. State Street, Suite 241, Ithaca, NY 14850

Meeting Minutes – Tuesday, April 14, 2026

Present D. Harrington, S. Cerquone, C. Walter, C. Whitmore

Excused

Staff C. Sponn, D. Achilles, T. Basilius

Guests K. Cerasaro, New York State Department of Labor, S. Paczkowski, New York State Department of Labor

Call to Order

Ms. Harrington called the meeting to order at 8:33 a.m.

Approval of Minutes – January 13, 2026

The minutes were moved by Ms. Whitmore, seconded by Ms. Harrington, and unanimously adopted by voice vote of members present to approve the minutes of January 13, 2026.

Approval of Minutes – January 20, 2026

The minutes were moved by Ms. Whitmore, seconded by Ms. Harrington, and unanimously adopted by voice vote of members present to approve the minutes of January 20, 2026.

Approval of Polices

Self-Sufficiency Policy

Mr. Sponn reviewed the Supportive Services policy and Committee members discussed the policy and provided edits. The committee discussed maximum CAP for participant lifetime, vehicle repairs and bike amounts, and would like to review policy annually; Committee and Board review and approval every two years should be required.

The Supportive Services Policy was moved by Ms. Walter, seconded by Ms. Cerquone, and unanimously adopted by voice vote of members present to approve the Supportive Service policy with edits referenced.

On the Job Training (OJET)

Mr. Sponn reviewed the On-the-Job Training (OJET) Policy and Committee members discussed the policy, provided edits, and clarification items.

The On-the-Job Training Policy was moved by Ms. Cerquone, seconded by Ms. Walters, and unanimously adopted by voice vote of members present to approve the On-the-Job Training policy with edits referenced.

On the Job Training will be added to the next agenda for discussion around the plans to roll out OJTs.

Career Center Report

Ms. Basilius reported that with Career Center youth staff are working to finalize Youth Employment Program (YEP) that is coming to an end, while the staff are doing a push for the Summer Youth Employment Program (SYEP).

The adult staff are working to streamline RESEA appointments to get customers into training. Adult staff are doing workshops at Day Reporting at Probation/Department of Social Services on Tuesdays and Thursdays. Ms. Basilius is working to have Department of Social Services Employment customers join workshops.

Ms. Basilius reported with the Incentive funds that Workforce received it has funded work experience with County Finance and now this participant is hired full time.

Mr. Cerasaro reported that New York State Department of Labor (NYSDOL) is in the process of hiring the Business Service Representative that started on Monday, April 14, 2026. NYSDOL had 7 candidates, some internal and external, that will be wrapping up at the end of week. NYSDOL had a candidate for the Veterans position but declined the offer. This Veterans position will be reposted.

The Teacher Ambassador Program has 4 teachers interested and will choose 2 for this year's program.

Financial Report - Adult & Dislocated Worker

Ms. Achilles reviewed the attached February 2026 Financial Reports.

Member Updates

No updates.

Adjournment

Ms. Harrington thanked the members for their attendance and adjourned the meeting at 10:00 a.m.

February 2026 WIOA Adult

Financial Report

Description	Allocation	Monthly Cash Expenditures	Total Cash Expenditures	Current Accruals	Total Accrued Expenditures	Available Funds

<u>PY 23 February 2024</u> – July 1, 2023 to June 30, 2025

WIOA Adult						
Adult-ITA	36,000.00	0.00	3,142.14	9,164.00	12,306.14	23,693.86
Transitional Jobs (Adult Part w&f)	10,000.00	0.00	0.00	0.00	0.00	10,000.00
Adult-OJT	6,000.00	0.00	0.00	0.00	0.00	6,000.00
Adult Supportive Services	28,000.00	0.00	636.00	0.00	636.00	27,364.00
Adult General (includes WIB)	71,748.11	5,301.49	12,680.37	3,007.10	15,687.47	56,060.64
Allocation	151,748.11	5,301.49	16,458.51	12,171.10	28,629.61	123,118.50
			121,398.49	80% of allocation		

- **11% of total allocation was expended for PY23 February 2024**
- **35% of the allocation must be spent on participants - $53,111.84 overall.**
- **As of February 2024, reports - $3,778.14 participants (2%) $12,680.37 (9%) operating expenses of total expenditure**

<u>PY 24 February 2025</u> – July 1, 2024 to June 30, 2026

WIOA Adult						
Adult-ITA	55,000.00	600.00	8,831.20	600.00	9,431.20	45,568.80
Transitional Jobs (Adult Part w&f)	10,000.00	0.00	0.00	0.00	0.00	10,000.00
Adult-OJT	5,000.00	0.00	0.00	0.00	0.00	5,000.00
Adult Supportive Services	5,000.00	0.00	92.00	0.00	92.00	4,908.00
Adult General (includes WIB)	60,929.77	7,579.96	30,267.74	4,169.12	34,436.86	26,492.91
Allocation	135,929.77	8,179.96	39,190.94	4,769.12	43,960.06	91,969.71

- **29% of total allocation was expended for PY24 February 2025**
- **35% of the allocation must be spent on participants - $47,575.42 overall.**
- **As of February 2025, reports - $8,923.20 participants (7%) $30,267.74 (22%) operating expenses of total expenditure**

<u>PY 25 February 2026 -</u> July 1, 2025 to June 30, 2027

WIOA Adult						
Adult-ITA	56,000.00	0.00	0.00	0.00	0.00	56,000.00
Transitional Jobs (Adult Part w&f)	10,000.00	0.00	0.00	0.00	0.00	10,000.00
Adult-OJT	5,000.00	0.00	0.00	0.00	0.00	5,000.00
Adult Supportive Services	7,000.00	0.00	0.00	0.00	0.00	7,000.00
Adult General (includes WIB)	63,378.81	0.00	0.00	0.00	0.00	63,378.81
Allocation	141,378.81	0.00	0.00	0.00	0.00	141,378.81
	49,482.58	35%	113,103.05	80% of allocation		

- **0% of total allocation was expended for PY24 November 2026**
- **35% of the allocation must be spent on participants - $49,482.58 overall.**
- **As of February 2026, reports - $0.00 participants (0%) $0.00 (0%) operating expenses of total expenditure**

February 2026 WIOA Dislocated Worker
Financial Report

PY 23 February 2024 - July 1, 2023 to June 30, 2026

Description	Allocation	Monthly Cash Expenditures	Total Cash Expenditures	Current Accruals	Total Accrued Expenditures	
WIOA DW						
DW - ITA	35,000.00	0.00	6,299.00	0.00	6,299.00	28,701.00
Transitional Jobs (Adult Part w&f)	9,000.00	0.00	0.00	0.00	0.00	9,000.00
DW-OJT	6,000.00	0.00	0.00	0.00	0.00	6,000.00
DW Supportive Services	25,000.00	0.00	544.88	0.00	544.88	24,455.12
DW General	86,202.39	4,282.84	16,747.55	2,376.07	19,123.62	67,078.77
Allocation	161,202.39	4,282.84	23,591.43	2,376.07	25,967.50	135,234.89
			128,961.91			

- **15% of total allocation was expended for PY24 February 2026**
- **35% of the allocation must be spent on participants - $56,420.84 overall.**
- **As of February 2024, reports - $6,843.88 participants (4%) $16,747.55 (11%) operating expenses of total expenditure**

PY 24 February 2025 - July 1, 2024 to June 30, 2026

Description	Allocation	Monthly Cash Expenditures	Total Cash Expenditures	Current Accruals	Total Accrued Expenditures	
WIOA DW						
DW - ITA	35,000.00	0.00	0.00	0.00	0.00	35,000.00
Transitional Jobs (Adult Part w&f)	10,000.00	0.00	0.00	0.00	0.00	10,000.00
DW-OJT	3,000.00	0.00	0.00	0.00	0.00	3,000.00
DW Supportive Services	25,000.00	0.00	0.00	0.00	0.00	25,000.00
DW General	79,080.87	0.00	0.00	0.00	0.00	79,080.87
Allocation	152,080.87	0.00	0.00	0.00	0.00	152,080.87
	53,228.30	35%	121,664.70			

- **0% of total allocation was expended for PY24 February 2026**
- **35% of the allocation must be spent on participants - $53,228.30 overall.**
- **As of February 2025, reports - $0.00 participants (0%) $0.00 0%) operating expenses of total expenditure**

PY 25 February 2026 - July 1, 2025 to June 30, 2027

Description	Allocation	Monthly Cash Expenditures	Total Cash Expenditures	Current Accruals	Total Accrued Expenditures	
WIOA DW						
DW - ITA	50,000.00	0.00	0.00	0.00	0.00	50,000.00
Transitional Jobs (Adult Part w&f)	10,000.00	0.00	0.00	0.00	0.00	10,000.00
DW-OJT	3,000.00	0.00	0.00	0.00	0.00	3,000.00
DW Supportive Services	15,000.00	0.00	0.00	0.00	0.00	15,000.00
DW General	56,574.25	0.00	0.00	0.00	0.00	56,574.25
Allocation	134,574.25	0.00	0.00	0.00	0.00	134,574.25
	47,100.99	35%	107,659.40			

- **0% of total allocation was expended for PY25 February 2026**
- **35% of the allocation must be spent on participants - $47,100.99 overall.**
- **As of February 2026, reports - $0.00 participants (0%) $0.00 (0%) operating expenses of total expenditure**

Draft of Tompkins WDB Supportive Services Policy – Adult/Dislocated Worker

Purpose

The purpose of this policy is to establish guidelines for the use of Workforce Innovation and Opportunity Act (WIOA) funds in the provision of supportive services to enable adults and dislocated workers to participate in WIOA activities.

Background

The goal of Supportive Services is to minimize barriers for adults and dislocated workers to enable them to fully participate in workforce development and/or employment activities and opportunities to help them progress along their career pathway.

The justification and strategy for providing supportive services must be clearly defined in the adult or dislocated worker's Individualized Employment Plan (IEP).

Eligibility

Actively engaged, enrolled, or in good standing WIOA adult and dislocated worker participants may receive Supportive Services if funding is available and each participant has met criteria and guidelines set forth in local county policies. There are no specific requirements for when to provide supportive services. They may be provided based on the needs of the adult or dislocated worker as identified in the participant's IEP.

Supportive services may only be provided to participants who are:

- Participating in WIOA enrolled services
- Unable to obtain such supportive services through other programs providing such services
- Cannot receive supportive services through referrals to partner agencies and other community service providers (e.g., ACCES-VR, DSS)

Important Limitations

All supportive services are subject to the availability of WIOA funds and are not an entitlement. Tompkins County Workforce Development may suspend or withdraw authorization for supportive services at any time and at the sole discretion of Tompkins County Workforce Development

DISCUSSION #1

Maximum Supportive Services Cap: Any combination of supportive services will not exceed $xx per participant over their lifetime.

DISCUSSION #2

Other supportive service needs may be reviewed and considered. Exceptions to both the supportive services available and the caps can be made by the Tompkins County Workforce Development Executive Director.

Allowable Supportive Services

Allowable Supportive Services are defined in TEGL 19-16. Services that enable an individual to participate in WIOA activities include, but are not limited to:

- Linkages to community services
- Assistance with transportation
- Assistance with child care and dependent care
- Assistance with housing
- Needs-related payments
- Assistance with educational testing
- Reasonable accommodations for adults or dislocated workers with disabilities
- Legal aid services
- Referrals to health care
- Assistance with uniforms or other appropriate work attire and work-related tools, including such items as eyeglasses and protective eye gear
- Assistance with books, fees, school supplies, and other necessary items for students enrolled in postsecondary education classes
- Payments and fees for employment and training-related applications, tests, and certifications

Any of the above listed Supportive Services may be provided under this policy and will be subject to any further restrictions listed below.

Reimbursement Costs

If an enrolled adult or dislocated worker pre-pays a cost that can qualify as a supportive service cost, the participant may be reimbursed those costs.

Requirements for Reimbursement:

1. Participant must be employed or in training for **30 days** before reimbursement can be processed
2. No reimbursements can be processed without supporting receipts
3. Must be WIOA enrolled and costs must occur after WIOA participant enrollment
4. Reimbursement requests should be for costs in the **last 6 months**

Housing and Child Care Costs

All community and local agencies that could provide this supportive service should be contacted prior to utilizing WIOA adult or dislocated worker funding (i.e., "all other options exhausted").

Child Care Assistance

- Child care costs can **only** be paid at a licensed/certified day care provider (not relative/friend, etc.)
- Housing or Child Care assistance will not exceed duration of training

Housing Assistance

- Housing can **only** be paid to commercial hotels/established landlords (not relatives/friend, etc.)
- Housing or Child Care assistance will not exceed duration of training

Electronic Devices

According to Program Guidance Letter #21-02, LWDBs may purchase and distribute Electronic Devices such as laptops, tablets, and smart phones for employment and training program participants using Workforce Innovation and Opportunity Act (WIOA) Title I funds.

Eligibility Requirements

Participants must attest that they:

- Do not own a comparable Electronic Device, OR
- Only own an old inadequate device, AND
- Do not have sufficient personal funds to purchase these items, AND
- Are unable to obtain an adequate Electronic Device through another program they are enrolled in or eligible for

Purchase Limitations

1. **No more than one Electronic Device may be purchased per participant, per lifetime**
2. Contingent upon the current Electronic Devices Policy
3. Device must be new (no used or refurbished equipment)
4. Device cost cannot exceed $1,000

Related Items

Related items such as, but not limited to:

- Replacement charging cables and/or wall plugs
- Flash drives
- Printer cables or HDMI cables
- Cellular or internet service
- Software

Device Requirements and Monitoring

- Device must be placed into service immediately upon receipt
- Must be used regularly for training or employment purposes

- Service Provider will conduct periodic checks to verify use
- Device should be appropriate for training needs

Return/Reimbursement Requirements

- If participant does not complete training or employment as planned, device or reimbursement amount may need to be returned
- Specific return requirements detailed in Electronic Devices Policy

Transportation Assistance

Gas Cards, Bus Passes, Cab Fare

Transportation assistance may be given to adult or dislocated worker to assist participant in being able to participate in program activities, training, and employment.

DISCUSSION #3 RATES/CAPS

Gas Cards:

- Gas cards/bus passes are to be utilized as a **supplement** to overall transportation costs, not to totally subsidize transportation costs of a participant
- Gas cards are distributed and paid at the current federal government rate: https://www.irs.gov/tax-professionals/standard-mileage-rates
- **Maximum of $50 in gas cards per day,** covering only one full round trip to and from training or placement
- Participant will not receive gas cards for days not in programs or training
- **Training provider signed attendance sheets are required as supporting documentation**
- If a provider cannot sign the attendance sheets, participant must return gas receipt after using the gas card (receipt must include the gas card number)
- **No additional cards will be issued if the participant does not return signed attendance sheet or receipt**

Bus Passes:

- Bus passes are purchased on a monthly basis, unless the training is for a shorter length of time
- Rate of bus pass purchase will vary depending on the travel needs of that participant, to be determined with Service Provider

Uber/Lyft/Taxi Expenses:

- Approved for instances where bus passes are not sufficient for covering transportation needs
- For example, when someone can take a bus to a class but there are no bus options for the ride home due to location and/or time of day
- **Total expense cannot exceed the $50/day cap**

Employment Transportation:

- Participants who become employed may receive gas cards/bus pass until their first paycheck
- Employment and pay schedule will be verified with employer

Other Transportation Supportive Services

Driver Training Course

- Supportive services can include driver training course to assist adult or dislocated worker in gaining driver's license to enable participant to participate in program activities, training, and employment
- ITA to be completed for training

Bicycle Purchase

- For rural areas and other areas where transportation is limited or non-existent, purchase of a new or used bicycle may be provided as a means of viable transportation to enable adult or dislocated worker to participate in program activities, training, and employment
- For rural distances, bike purchase to cover a radius of 25 miles is reasonable
- **Cost of the bicycle can't exceed $250** and will be purchased by Workforce Development

Vehicle Repairs

Other transportation modes or repairs can be funded but requires prior approval by the Workforce Administrator of that adult or dislocated worker contract.

Requirements:

- **Cost of vehicle repairs can't exceed $1,000 per training period or training funding request**
- All repairs must have an invoice in order to be paid
- All repairs must be conducted at a state approved repair shop
- Repairs are only done on vehicles registered to the participating adult or dislocated worker
- **No repairs will be made on family or friend vehicles**, even if that vehicle is the participant's mode of transportation
- **Payments will be made directly to authorized service shops**
- **No retroactive payments will be allowed**

Note: Vehicle repair cap pertains to each training period or training funding request. Therefore, a participant can repeatedly receive funding assistance for vehicle repair during different training periods (as long as the total lifetime supportive services have not exceeded **$X,XXX** and each individual training period repair does not exceed $1,000).

Books, Fees, and Supplies

Coverage: Actual cost based on documented need

Allowable expenses include:

- Textbooks and required reading materials
- Lab fees, library fees, technology fees
- School supplies necessary for training
- Student ID fees
- Required insurance for training programs

Requirements:

- Must be required for an approved training program
- Documentation from Service Provider required

Clothing, Uniforms, and Work Attire

Coverage: Based on documented need

Allowable items include:

- Uniforms required for training or employment
- Protective clothing or footwear
- Professional work attire required to begin employment
- Eyeglasses and protective eye gear

Requirements:

- Email or letter from employer or training provider stating items are required
- Must be provided prior to starting work-based training, classroom training, or unsubsidized employment

Tools and Equipment

Coverage: Actual cost based on documented need

Allowable items include:

- Job-related tools, supplies, and equipment
- Protective eyewear and safety equipment
- Items specifically required for approved training or employment

Requirements:

- Documentation from employer or training provider that items are required
- Tools must be necessary for participation in training or required to begin/retain employment

Licensing, Testing, and Certification Fees

Coverage: Actual cost based on documented need

Allowable expenses include:

- Professional licensing fees
- Certification exam fees
- Pre-employment testing fees
- Fingerprinting costs
- Background check fees
- Birth certificates

Requirements:

- Must be required for approved training program or employment
- Cannot be included in tuition costs that are otherwise reimbursed

Procedures

Required Steps for Service Providers

Service Providers should first contact MOA/MOU (Memorandum of Agreement/Understanding) partners or other community agencies in their area who may offer free services before utilizing WIOA Supportive Services funding, and the attempts made should be documented in OSOS comments.

At a minimum, service providers shall:

1. **Document the need** for the supportive service and justify issuance of the service in the participant's IEP and in OSOS (including a Comment describing what was provided and why, Achievement Objective and Service)

2. **Maintain records** of documentation that verify the client received the service through an original signature on a receipt form

3. **Monitor delivery** of supportive services to ensure they are being used as intended

4. **Track cumulative spending** to ensure the **$X,XXX** lifetime cap is not exceeded

5. **Retain documentation** including:

    - Receipts and invoices

    - Original signed receipt forms

- Attendance records (for transportation)
- Letters from employers/training providers (for required items)
- Evidence of attempts to secure services from partner agencies

Documentation Requirements

All supportive service needs must be:

- Documented in the participant's Individualized Employment Plan (IEP)
- Recorded in the Career Center Operating System (OSOS) with comments, achievement objectives, and services
- Supported by receipts, invoices, or other documentation retained in the participant's file
- Justified with documentation explaining why the supportive service is needed (bill, employment offer/start date, participant's written statement, etc.)

Approval Process

1. Service provider assesses participant need for supportive services
2. Service provider verifies participant cannot obtain services through other resources
3. Service provider documents attempts to secure services from MOA/MOU partners in OSOS
4. Service provider completes supportive service request and submits for approval
5. Service is approved based on availability of funds and participant need
6. Service provider tracks spending against $X,XXX lifetime cap
7. Participant signs receipt acknowledgment
8. All documentation retained in participant file and entered into OSOS

References

- WIOA Sec. 134(d)(3)(B)
- WIOA Sec. 134(c)(3)
- 20 CFR 680.900-680.970
- TEGL 19-16
- Program Guidance Letter #21-02

DRAFT - Tompkins County Workforce Development Board (WDB) On-the-Job Training (OJT) Policy

Purpose and Definition

Refer to WIOA Sec. 3(44) and 134(c)(H), as well as 20 CFR 680.700

On-the-Job Training (OJT) is a training subsidy that focuses on the participant's training needs. The program operates on the premise that employers best understand their organization's specific training requirements and are most qualified to provide this training.

OJT participants are hired directly by the employer and receive training while performing productive work. Although employers benefit from the program, the primary focus is on the participant's skill development and employment success.

Per 20 CFR 680.720, employers may be reimbursed up to 50 percent of the wage rate of an OJT participant, and up to 75 percent using the criteria in § 680.730 (See attachments), for the extraordinary costs of providing the training and additional supervision related to the OJT. This reimbursement covers the extraordinary costs of training individuals who do not meet all minimum qualifications for the position, including intensive supervision, lower initial productivity, material wastage, abnormal tool wear, and down time.

Employers are expected to retain OJT participants as long-term employees upon successful completion of training.

Reimbursement Guidelines

Refer to 20 CFR 680.720(b)

Reimbursement rates will be 50% to 75% of the OJT participant's wage rate according to the following guidelines:

- Small businesses (1-50 employees): 50-75% reimbursement
- Medium businesses (51-250 employees): 50-75% reimbursement
- Large businesses (251+ employees): 50-75% reimbursement
- Reimbursement rate is a maximum of $10,000 per OJT trainee. No limit reimbursement per business

Priority of funding may be given to employers not sponsored in the previous 12 months in times of limited OJT funding.

Pre-award Vetting Process

Verifying a business is not suspended or debarred is part of this pre-vetting process when all of the steps described are followed. An entity who is suspended or debarred may not be the recipient of federal funds. All employers must complete the Pre-Award Review process before OJT contract approval. This includes:

- Completion of the OJT Preliminary Questionnaire
- Completion of the Preliminary Review-Business Application
- Verification as a responsible training provider through local and New York State Department of Labor vetting
- On-site visit to assess working conditions

Employer Performance Standards

Contracts will not be written with employers who have previously failed to provide OJT participants with continued long-term employment offering wages, benefits, and working conditions similar to those provided to regular employees performing the same work.

A pattern of non-compliance is established by one occurrence. Employers may submit a written explanation regarding the occurrence:

- If explanation is accepted by WDB: Employer becomes eligible for OJT contracts after a six-month suspension.
- If explanation is not accepted or not received: Employer is ineligible for OJT contracts for one year.

When resources are limited, priority will be given to employers with no past non-compliance violations.

<u>Marketing</u>

Qualified businesses may be alerted to OJT opportunities by local staff in any of the following ways:

- Membership in and/or presentation to employer, economic development, social or service organizations.
- Internet-based outreach: such as social media (Facebook, LinkedIn), email, and local Workforce website.
- Responding to incoming phone calls/e-mails from employers.
- Newspaper/magazine ads or articles.
- Job Fairs.
- Maximizing established employer relationships to expand OJT opportunities within business and have them act as promoter to their business partners.

The preceding methods will also serve as a way to identify OJT opportunities for jobseekers that would benefit from hands-on training. The LWDA reserves the right to implement additional outreach methods as determined appropriate and effective.

<u>Participant Eligibility</u>

Individuals must meet the following criteria to be eligible for OJT funding:

Income and Employment Status

- Income prior to OJT cannot exceed the self-sufficiency wage rate (See attachments) established by the Tompkins County WDB
- Must meet one of the following at the time of enrollment:
    - Workforce Innovation and Opportunity Act (WIOA) eligible; **OR**
    - Not employed; **OR**
    - Underemployed (working less than 30 hours/week) and earning less than the self-sufficiency wage rate.

AND must meet one of the following training needs:

- Has a need for OJT training to meet special employer requirements to retain a skilled workforce or avert layoffs; **OR**
- OJT relates to introduction of new technologies, new production or service procedures, upgrading to new jobs requiring additional skills, or workplace literacy.

Individual Employment Plan (IEP) – An IEP must be developed that includes:

- Work history; **AND**
- Training and education background; **AND**
- Skills, abilities, and basic skills assessment; **AND**
- Barriers faced by the individual, if applicable.

Skills Gap Documentation

Refer to 20 CFR 680.700 and 680.730

A sufficient skills gap must be determined between the individual's current skills and the skills needed for the job. The skills gap will be documented through:

- Comparison of current skill level to job requirements outlined in the Training Outline; **AND**
- Completion of JobZone assessment; **AND**
- Comparison to O*NET job duties for the position.

Training History

- Individual must not have received WIOA training dollars within the last 36 months.
- If a participant is terminated through no fault of their own, they may be re-enrolled in another OJT if reasonable funding remains available from the terminated contract.

Priority of Service priority will be given to military veterans who meet other eligibility requirements.

Employer Eligibility

Refer to 20 CFR 683.255, 683.260, 683.270, and 683.410

Employers must meet the following criteria to be eligible for OJT funding:

Employer Performance and History

- No previous pattern of failing to provide OJT participants with continued long-term employment offering wages, benefits, and working conditions similar to regular employees
- No company relocation within the last 120 days that resulted in layoffs
- Selected OJT participant is not a relative of the employer

Workplace Standards

- Workers' compensation insurance is provided
- All health and safety standards will be followed
- No abnormal labor conditions exist (such as strikes or lockouts)
- An existing contract or collective bargaining agreement will not be impaired

Employment Practices

Refer to 20 CFR 683.255 and 683.270

- No displacement of currently employed workers
- No individual is on layoff or has been terminated without cause from the same or similar position
- Funds will not be used for training involving sectarian activities or with contractors suspended from federal programs

Wage Requirements

- Minimum wage: NYS minimum wage or living wage in Tompkins County (Committee decision)
- Wage structure: Hourly wage only during OJT contract period and when the participant is confirmed to have been engaged in productive work
- Only the agreed-upon hourly wage rate may be claimed for OJT reimbursement. Bonuses, commissions, tips, incentives, piece-work rates, or any other variable compensation are not reimbursable under the OJT contract and may not be used to satisfy the contracted hourly wage obligation, however, employers (or other sources) may pay such amounts to the participant separately, provided they are not submitted for reimbursement.
    - Exception: Sign-on bonuses are permitted if listed as a separate payroll line item (not reimbursable through OJT)
- Wage continuity: Hourly wage rate must be maintained at or above the OJT contract rate through Quarter 2 After Exit

Position Requirements

OJT contracts may only be written for positions that are:

- Permanent
- Non-seasonal
- Full-time (minimum 30 hours/week)

Training Requirements

- **Training length:** 160-640 hours, not to exceed 6 months
- Training outline must be sequential and justify length based on participant skills gap
- Skills gap documented using JobZone/O*NET Skills Survey showing participant cannot perform required job duties
- Training cannot include previously learned skills unless significant time lapse requires updating
- Participant cannot be trained in same occupation previously held without documentation of new, more difficult skills

Reimbursement Process

- Based on actual work/training time, not exceeding 40 hours per week
- Employer maintains daily time records (OJT Daily Time Record) signed by supervisor and participant
- Overtime hours reimbursed at regular hourly rate and counted against training length
- Deputy Director - Board reviews time records and vouchers before payment authorization
- As part of reimbursement process, payroll record must be reviewed, and wage rate must be verified and maintained as part of the backup document to support OJT reimbursement.
- Payment frequency based on contract terms using OJT Reimbursement Voucher form (See attachments)
- **Calculation:** (Total training hours × hourly wage) × reimbursement percentage = total reimbursement

*****Excluded from reimbursement:*** *holidays, vacations, sick time, jury duty, fringe benefits, tips, commissions, general orientation provided to all new hires***

For reference, compensation of personnel services and standards for documentation are found at 2 CFR 200.430 Compensation—personal services. When writing an OJT contract ensure that the employer's documentation is sufficient to complete your back up documentation requirements.

Data Entry

On the day the OJT service starts, staff must enter the appropriate service in the One-Stop Operating System (OSOS). OJT is entered as a Non-ITA Training. Staff will data enter the OJT from the Eligible Training Provides List (ETPL) Autoload. If it is not on

ETPL Autoload, staff can create a service but the curriculum of the training must be collected.

Contract Requirements

Contract Execution

- Participants may not begin training prior to contract execution
- Contract execution is complete when all required signatures are obtained from both Tompkins County Workforce Development and the employer

Contract Terms

- Duration: Training length: 160-640 hours, not to exceed 6 months, limited to the time required for the participant to become proficient in the occupation
- Reimbursement: 50-70% of wage rate
- Eligibility: Contracts may only be written for individuals meeting the criteria specified in the Participant Eligibility section

Non-Reimbursable Costs

The following participant costs are not covered: uniforms, work-related tools, equipment, licensing fees, training-related books, or additional coursework related to the training occupation.

Employer Limitations

- The WDB reserves the right to limit the number of OJT contracts per employer, per program year
- OJT reimbursements to a single employer may not exceed 10% of the approved local OJT budget without prior WDB approval

Employer-Referred Candidates

Employer-referred candidates will be considered but not automatically accepted. All OJT participants must meet WIOA eligibility requirements. Employers must agree to accept other referrals and interview additional WIOA-eligible applicants.

Re-hiring Previous Employees

Re-hires are permitted only if:

- The position is different from the previous role and requires new training
- The candidate meets all OJT eligibility requirements
- A written skills comparison is completed documenting the training need
- The skills comparison is included in the participant's case file and documented in OSOS

Grievance Procedures

Both employers and participants will be informed of WIOA grievance and discrimination complaint procedures. When engaging in participant support contracts with WIOA funds, ensure the contract includes appropriate non-discrimination clause, refer to WIOA Sec. 188. Please also reference both TAs #18-04 and #22-01.1.

Contract Review

The Deputy Director – Career Center must review the contract with the employer prior to execution to ensure understanding of all requirements.

Authorized Signatories: The appropriate employer signatory is:

- Owner (if not incorporated); or
- Partner (if a partnership); or
- Officer (if a corporation); or
- Person with financial or hiring authority.

For corporations designating signatories other than officers, written authorization transferring signatory responsibilities must be obtained.

Required Contract File Documents

Contract must include the required business assurances defined in Technical Advisory #10-15.2 item C. This Policy should incorporate a copy of OJT contract template.

Should also include duration and total hours of OJT and reimbursable total OJT wages

- Signed contract
- Justification documents
- Training Plan/Outline
- Federal Certifications
- Union representative agreement (if Collective Bargaining Agreement exists)
- Any modifications

** *Employer agrees to retain participant upon successful completion unless documented performance issues, economic conditions, or policy violations* **

Supportive Services

Transportation assistance may be provided at the Tompkins County Workforce Development's discretion, based on available funding, for the duration of the OJT contract. Assistance may include bus passes or ride-sharing for travel to and from work.

Transportation assistance:

- Is not part of the OJT contract budget
- Is excluded from the OJT maximum reimbursement amount
- Will only be considered for individuals with no other source of transportation assistance

- May not be available when funding is limited

Monitoring

Refer to 20 CFR 683.410

OJT contract monitoring will follow WIOA guidelines and include:

- **Midpoint monitoring**: On-site visit conducted at the OJT midpoint, as required by Workforce Development System Technical Advisory (TA) #10-15.2. (See attached)
- **Additional visits**: Conducted as needed
- **Monitoring activities**: Separate interviews with the participant and employer; review of payroll documents and time/attendance records

Employers will be formally notified that on-site monitoring is a mandatory contract requirement. All monitoring findings will be documented and reported to the WDB Chairperson.

Access to records requirement 2 CFR 200.337 is a federal requirement, also requirement for record retention 2 CFR 200.334. These requirements must be included in the OJT participant support contract so the business knows the expectation.

Contract Modifications and Termination

Modifications and Extensions

All contract modifications and extensions require review and approval by the Tompkins County Workforce Development Executive Director. Once approved:

- The modification/extension will be signed and executed by the original parties
- The signed document will be attached to the top of the original OJT contract

Termination Rights

Tompkins County Workforce Development has the right to cancel any OJT contract and cease program operations at any time without further liability to either party.

§ 683.410 What are the oversight roles and responsibilities of recipients and subrecipients of Federal financial assistance awarded under title I of the Workforce Innovation and Opportunity Act and the Wagner-Peyser Act?

(a) Each recipient and subrecipient of funds under title I of WIOA and under the Wagner-Peyser Act must conduct regular oversight and monitoring of its WIOA and Wagner-Peyser Act program(s) and those of its subrecipients and contractors as required under title I of WIOA and the Wagner-Peyser Act, as well as under 2 CFR part 200, including 2 CFR 200.327, 200.328, 200.330, 200.331, and Department exceptions at 2 CFR part 2900, in order to:

(1) Determine that expenditures have been made against the proper cost categories and within the cost limitations specified in WIOA and the regulations in this part;

(2) Determine whether there is compliance with other provisions of WIOA and the WIOA regulations and other applicable laws and regulations;

(3) Assure compliance with 2 CFR part 200; and

(4) Determine compliance with the nondiscrimination, disability, and equal opportunity requirements of sec. 188 of WIOA, including the Assistive Technology Act of 1998 (29 U.S.C. 3003).

(b) State roles and responsibilities for grants under secs. 128 and 133 of WIOA:

(1) The Governor is responsible for the development of the State monitoring system. The Governor must be able to demonstrate, through a monitoring plan or otherwise, that the State monitoring system meets the requirements of paragraph (b)(2) of this section.

(2) The State monitoring system must:

(i) Provide for annual on-site monitoring reviews of local areas' compliance with 2 CFR part 200, as required by sec. 184(a)(3) of WIOA;

(ii) Ensure that established policies to achieve program performance and outcomes meet the objectives of WIOA and the WIOA regulations;

(iii) Enable the Governor to determine if subrecipients and contractors have demonstrated substantial compliance with WIOA and Wagner-Peyser Act requirements;

(iv) Enable the Governor to determine whether a local plan will be disapproved for failure to make acceptable progress in addressing deficiencies, as required in sec. 108(e) of WIOA; and

(v) Enable the Governor to ensure compliance with the nondiscrimination, disability, and equal opportunity requirements of sec. 188 of WIOA, including the Assistive Technology Act of 1998 (29 U.S.C. 3003).

(3) The State must conduct an annual on-site monitoring review of each local area's compliance with 2 CFR part 200, as required by sec. 184(a)(4) of WIOA.

(4) The Governor must require that prompt corrective action be taken if any substantial violation of standards identified in paragraph (b)(2) or (3) of this section is found.

(5) The Governor must impose the sanctions provided in secs. 184(b)-(c) of WIOA in the event of a subrecipient's failure to take required corrective action required under paragraph (b)(4) of this section.

(6) The Governor may issue additional requirements and instructions to subrecipients on monitoring activities.

(7) The Governor must certify to the Secretary every 2 years that:

(i) The State has implemented 2 CFR part 200;

(ii) The State has monitored local areas to ensure compliance with 2 CFR part 200, including annual certifications and disclosures as outlined in 2 CFR 200.113, Mandatory Disclosures. Failure to do so may result in remedies described under 2 CFR 200.338, including suspension and debarment; and

(iii) The State has taken appropriate corrective action to secure such compliance.

§ 200.430 Compensation—personal services.

(a) ***General.*** Compensation for personal services includes all remuneration, paid currently or accrued, for services of employees rendered during the period of performance under the Federal award, including but not necessarily limited to wages and salaries. Compensation for personal services may also include fringe benefits addressed in § 200.431. Costs of compensation are allowable to the extent that they satisfy the specific requirements of this part and that the total compensation for individual employees:

(1) Is reasonable for the services rendered and conforms to the established written policy of the recipient or subrecipient consistently applied to both Federal and non-Federal activities;

(2) Follows an appointment made in accordance with the recipient's or subrecipient's laws, rules, or written policies and meets the requirements of Federal statute, where applicable; and

(3) Is determined and supported as provided in paragraph (g) of this section, when applicable.

(b) ***Reasonableness.*** Compensation for employees engaged in work on Federal awards will be reasonable to the extent that it is consistent with that paid for similar work in other activities of the recipient or subrecipient. In cases where the kinds of employees required for Federal awards are not found in the other activities of the recipient or subrecipient, compensation will be considered reasonable to the extent that it is comparable to that paid for similar work in the labor market in which the recipient or subrecipient competes for the kind of employees involved.

(c) ***Professional activities outside the recipient or subrecipient.*** Unless the Federal agency expressly authorizes an arrangement, a recipient or subrecipient must follow its written policies and procedures concerning the permissible extent of professional services that can be provided outside the recipient or subrecipient for non-organizational compensation. Where the recipient or subrecipient does not have written policies or procedures, or they do not adequately define the permissible extent of consulting or other non-organizational activities undertaken for extra outside pay, the Federal Government may require the recipient or subrecipient to allocate the effort of professional staff working on Federal awards between:

(1) Recipient or subrecipient activities, and

(2) Non-organizational professional activities. Appropriate arrangements governing compensation must be negotiated on a case-by-case basis if the Federal agency considers the extent of non-organizational professional effort excessive or inconsistent with the conflicts-of-interest terms and conditions of the Federal award.

(d) ***Unallowable costs.***

(1) Costs unallowable under other sections of these principles must not be allowable under this section solely because they constitute personnel compensation.

(2) The allowable compensation for certain employees is subject to a ceiling in accordance with Federal statute. See 10 U.S.C. 3744(a)(16), 41 U.S.C. 1127, and 41 U.S.C. 4304(a)(16) for the ceiling amount, covered compensation subject to the ceiling, covered employees, and other relevant provisions for cost-reimbursement contracts. For other types of Federal awards, other statutory ceilings may apply.

(e) ***Special considerations.*** Special considerations in determining the allowability of compensation will be given to any change in a recipient's or subrecipient's compensation policy resulting in a substantial increase in its employees' level of compensation (particularly when the change was concurrent with an increase in the ratio of Federal awards to other activities) or any change in the treatment of allowability of specific types of compensation due to changes in Federal policy.

(f) ***Incentive compensation.*** Incentive compensation to employees based on cost reduction, efficient performance, suggestion awards, or safety awards is allowable to the extent that the overall compensation is determined to be reasonable and such costs are paid or accrued according to an agreement entered into in good faith between the recipient or subrecipient and the employees before the services were rendered, or according to an established plan followed by the recipient or subrecipient so consistently as to imply, in effect, an agreement to make such payment.

(g) ***Standards for Documentation of Personnel Expenses.***

(1) Charges to Federal awards for salaries and wages must be based on records that accurately reflect the work performed. These records must:

(i) Be supported by a system of internal control that provides reasonable assurance that the charges are accurate, allowable, and properly allocated;

(ii) Be incorporated into the official records of the recipient or subrecipient;

(iii) Reasonably reflect the total activity for which the employee is compensated by the recipient or subrecipient, not exceeding 100 percent of compensated activities (for IHEs, this is the IBS);

(iv) Encompass federally-assisted and all other activities compensated by the recipient or subrecipient on an integrated basis but may include the use of subsidiary records as defined in the recipient's or subrecipient's written policy;

(v) Comply with the established accounting policies and procedures of the recipient or subrecipient (See paragraph (i)(1)(ii) of this section for treatment of incidental work for IHEs.); and

(vi) Support the distribution of the employee's salary or wages among specific activities or cost objectives if the employee works on more than one Federal award; a Federal award and non-Federal award; an indirect cost activity and a direct cost activity; two or more indirect activities allocated using different allocation bases; or an unallowable activity and a direct or indirect cost activity.

(vii) Budget estimates (meaning, estimates determined before the services are performed) alone do not qualify as support for charges to Federal awards, but may be used for interim accounting purposes, provided that:

(A) The system for establishing the estimates produces reasonable approximations of the activity performed;

(B) Significant changes in the related work activity (as defined by the recipient's or subrecipient's written policies) are promptly identified and entered into the records. Short-term (such as one or two months) fluctuations between workload categories do not need to be considered as long as the distribution of salaries and wages is reasonable over the longer term; and

(C) The recipient's or subrecipient's system of internal controls includes processes to perform periodic after-the-fact reviews of interim charges made to a Federal award based on budget estimates. All necessary adjustments must be made so that the final amount charged to the Federal award is accurate, allowable, and properly allocated.

(viii) Because practices vary as to the activity constituting a full workload (for example, the Institutional Base Salary (IBS) for IHEs), records may reflect categories of activities expressed as a percentage distribution of total activities.

(ix) It is recognized that teaching, research, service, and administration are often inextricably intermingled in an academic setting. Therefore, a precise assessment of factors contributing to costs is not required when IHEs record salaries and wages charged to Federal awards.

(2) For records that meet the standards required in paragraph (g)(1) of this section, the recipient or subrecipient is not required to provide additional support or documentation for the work performed other than that referenced in paragraph (g)(3) of this section.

(3) In accordance with Department of Labor regulations implementing the Fair Labor Standards Act (FLSA) (29 CFR part 516), charges for the salaries and wages of nonexempt employees, in addition to the supporting documentation described in this section, must also be supported by records indicating the total number of hours worked each day.

(4) Salaries and wages of employees used in meeting cost sharing requirements on Federal awards must be supported in the same manner as salaries and wages claimed for reimbursement from Federal awards.

(5) States, local governments, and Indian Tribes may use substitute processes or systems for allocating salaries and wages to Federal awards either in place of or in addition to the records described in paragraph (g)(1) of this section if approved by the cognizant agency for indirect cost. Such systems may include, but are not limited to, random moment sampling, "rolling" time studies, case counts, or other quantifiable measures of work performed.

(i) Substitute systems that use sampling methods (primarily for Temporary Assistance for Needy Families (TANF), the Supplemental Nutrition Assistance Program (SNAP), Medicaid, and other public assistance programs) must meet acceptable statistical sampling standards, including:

(A) The sampling universe must include all of the employees whose salaries and wages are to be allocated based on sample results except as provided in paragraph (g)(5)(iii);

(B) The sample must cover the entire period involved; and

(C) The results must be statistically valid and applied to the period being sampled.

(ii) Allocating charges for the sampled employees' supervisors and clerical and support staff, based on the results of the sampled employees, will be acceptable.

(iii) Less than full compliance with the statistical sampling standards noted in paragraph (5)(i) may be accepted by the cognizant agency for indirect costs if it concludes that the amounts allocated to Federal awards will be minimal or if it concludes that the system proposed by the recipient or subrecipient will result in lower costs to Federal awards than a system which complies with the standards.

(6) Cognizant agencies for indirect costs are encouraged to approve alternative proposals based on outcomes and milestones for program performance when these are clearly documented. These plans are acceptable as an alternative to requirements in paragraph (g)(1) of this section when approved by the cognizant agency for indirect costs.

(7) For Federal awards of similar purpose activity or instances of approved blended funding, a recipient or subrecipient may submit performance plans that incorporate funds from multiple Federal awards and account for their combined use based on performance-oriented metrics, provided the plans are approved in advance by all involved Federal agencies. In these instances, the recipient or subrecipient must submit a request for waiver of the requirements based on documentation that describes the method of charging costs, relates the charging of costs to the specific activity that is applicable to all fund sources, and is based on quantifiable measures of the activity in relation to time charged.

(8) For a recipient or subrecipient whose records do not meet the standards described in this section, the Federal Government may require personnel activity reports, including prescribed certifications, or equivalent documentation supporting the records as required in this section.

(h) ***Nonprofit organizations.*** This paragraph (h) provides guidance specific to only nonprofit organizations. For compensation to members of nonprofit organizations, trustees, directors, associates, officers, or the immediate families thereof, a determination must be made that the compensation is reasonable for the actual personal services rendered rather than a distribution of earnings above actual costs. Compensation may include director's and executive committee member's fees, incentive awards, off-site or incentive pay, location allowances, hardship pay, and cost-of-living differentials.

(i) ***Institutions of Higher Education (IHEs).*** This paragraph provides guidance specific to only IHEs.

(1) ***Determining allowable personnel costs.*** Certain conditions require special consideration and possible limitations in determining allowable personnel compensation costs under Federal awards. Among such conditions are the following:

(i) Allowable activities. Charges to Federal awards may include reasonable amounts for activities contributing and directly related to work under an agreement, such as delivering special lectures about specific aspects of the ongoing activity, writing reports and articles, developing and maintaining protocols (human, animals, etcetera), managing substances/chemicals, managing and securing project-specific data, coordinating research subjects, participating in appropriate seminars, consulting with colleagues and graduate students, and attending meetings and conferences.

(ii) Incidental activities. Incidental activities for which supplemental compensation is allowable under the written institutional policy (at a rate not to exceed institutional base salary) do not need to be included in the records described in paragraph (g). To charge payments of incidental activities directly, such activities must either be expressly authorized in the Federal award budget or receive prior written approval by the Federal agency.

(2) ***Salary basis.*** Charges for work performed on Federal awards by faculty members during the academic year are allowable at the institutional base salary (IBS) rate. Except as noted in paragraph (i)(1)(ii), in no event will charges to Federal awards, irrespective of the basis of computation, exceed the proportionate share of the IBS for that period. This principle applies to all members of the faculty at an institution. IBS is the annual compensation paid by an IHE for an individual's appointment, whether that

individual's time is spent on research, instruction, administration, or other activities. IBS excludes any income an individual earns outside of duties performed for the IHE. Unless there is prior approval by the Federal agency, charges of a faculty member's salary to a Federal award may not exceed the proportionate share of the IBS for the period during which the faculty member worked on the Federal award.

(3) ***Intra-Institution of Higher Education (IHE) consulting.*** Intra-IHE consulting by faculty should be undertaken as an IHE responsibility requiring no compensation in addition to IBS. However, in unusual cases where consultation is across departmental lines or involves a separate or remote operation, and the work performed by the faculty members is in addition to their regular responsibilities, any charges for such work representing additional compensation above IBS are allowable provided that such consulting arrangements are expressly authorized in the Federal award or approved in writing by the Federal agency.

(4) ***Extra service pay.*** Extra service pay typically represents overload compensation, subject to institutional compensation policies for services above and beyond IBS. Where extra service pay results from Intra-IHE consulting, it is subject to the same requirements of paragraph (b) of this section. It is allowable if all of the following conditions are met:

(i) The IHE establishes consistent written policies which apply uniformly to all faculty members, not just those working on Federal awards.

(ii) The IHE establishes a consistent written definition of work covered by IBS, which is specific enough to determine conclusively when work beyond that level has occurred. This definition may be described in appointment letters or other documentation.

(iii) The supplementation amount paid is commensurate with the IBS pay rate and additional work performed. See paragraph (i)(2) of this section.

(iv) The salaries, as supplemented, fall within the salary structure and pay ranges established by and documented in writing or otherwise applicable to the IHE.

(v) The total salaries charged to Federal awards, including extra service payments, are subject to the standards of documentation as described in paragraph (g).

(5) ***Periods outside the academic year.***

(i) Except as specified for teaching activity in paragraph (i)(5)(ii) of this section, charges for work performed by faculty members on Federal awards during periods not included in the base salary period must be at a rate not more than the IBS.

(ii) Charges for teaching activities performed by faculty members on Federal awards during periods not included in IBS period must be based on the written policy of the IHE governing compensation to faculty members for teaching assignments during such periods.

(6) ***Part-time faculty.*** Charges for work performed on Federal awards by faculty members having only part-time appointments must be determined at a rate not more than that regularly paid for part-time assignments.

(7) ***Sabbatical leave costs.*** Rules for sabbatical leave are as follows:

(i) Costs of leaves of absence by employees for performance of graduate work or sabbatical study, travel, or research are allowable, provided the IHE has a uniform written policy on sabbatical leave for persons engaged in instruction and persons engaged in research. These costs must be allocated equitably among all related activities of the IHE.

(ii) Where sabbatical leave is included in fringe benefits for which a cost is determined for assessment as a direct charge, the aggregate amount of such assessments applicable to all work of the institution during the base period must be reasonable in relation to the IHE's actual experience under its sabbatical leave policy.

(8) ***Salary rates for non-faculty members.*** Non-faculty full-time professional personnel may also earn "extra service pay" in accordance with the IHE's written policy and paragraph (i)(1)(i).

20 CFR § 680.700 - What are the requirements for on-the-job training?

§ 680.700 What are the requirements for on-the-job training?

(a) OJT is defined at WIOA sec. 3(44). OJT is provided under a contract with an employer or registered apprenticeship program sponsor in the public, private non-profit, or private sector. Through the OJT contract, occupational training is provided for the WIOA participant in exchange for the reimbursement, typically up to 50 percent of the wage rate of the participant, for the extraordinary costs of providing the training and supervision related to the training. In limited circumstances, as provided in WIOA sec. 134(c)(3)(h) and § 680.730, the reimbursement may be up to 75 percent of the wage rate of the participant.

(b) OJT contracts under WIOA title I, must not be entered into with an employer who has received payments under previous contracts under WIOA or WIA if the employer has exhibited a pattern of failing to provide OJT participants with continued long-term employment as regular employees with wages and employment benefits (including health benefits) and working conditions at the same level and to the same extent as other employees working a similar length of time and doing the same type of work.

(c) An OJT contract must be limited to the period of time required for a participant to become proficient in the occupation for which the training is being provided. In determining the appropriate length of the contract, consideration should be given to the skill requirements of the occupation, the academic and occupational skill level of the participant, prior work experience, and the participant's IEP.

§ 680.730 Under what conditions may a Governor or Local Workforce Development Board raise the on-the-job training reimbursement rate up to 75 percent of the wage rate?

(a) The Governor may increase the reimbursement rate for OJT contracts funded through the statewide employment and training activities described in § 682.210 of this chapter up to 75 percent, and the Local WDB also may increase the reimbursement rate for OJT contracts described in § 680.320(a)(1) up to 75 percent, when taking into account the following factors:

(1) The characteristics of the participants taking into consideration whether they are "individuals with barriers to employment," as defined in WIOA sec. 3(24);

(2) The size of the employer, with an emphasis on small businesses;

(3) The quality of employer-provided training and advancement opportunities, for example if the OJT contract is for an in-demand occupation and will lead to an industry-recognized credential; and

(4) Other factors the Governor or Local WDB may determine to be appropriate, which may include the number of employees participating, wage and benefit levels of the employees (both at present and after completion), and relation of the training to the competitiveness of the participant.

(b) Governors or Local WDBs must document the factors used when deciding to increase the wage reimbursement levels above 50 percent up to 75 percent.

§ 683.255 What are the limitations related to religious activities of title I of the Workforce Innovation and Opportunity Act?

(a) Section 188(a)(3) of WIOA prohibits the use of funds to employ participants to carry out the construction, operation, or maintenance of any part of any facility used for sectarian instruction or as a place for religious worship with the exception of maintenance of facilities that are not primarily used for instruction or worship and are operated by organizations providing services to WIOA participants.

(b) 29 CFR part 2, subpart D, governs the circumstances under which Department support, including WIOA title I financial assistance, may be used to employ or train participants in religious activities. Under that subpart, such assistance may be used for such employment or training only when the assistance is provided indirectly within the meaning of the Establishment Clause of the U.S. Constitution, and not when the assistance is provided directly. That subpart also contains requirements related to equal treatment in Department of Labor programs for religious organizations, and to protecting the religious liberty of Department of Labor social service providers and beneficiaries. (29 CFR part 2, subpart D—Equal Treatment in Department of Labor Programs for Religious Organizations, Protection of Religious Liberty of Department of Labor Social Service Providers and Beneficiaries).

§ 200.337 Access to records.

(a) ***Records of recipients and subrecipients.*** The Federal agency or pass-through entity, Inspectors General, the Comptroller General of the United States, or any of their authorized representatives must have the right of access to any records of the recipient or subrecipient pertinent to the Federal award to perform audits, execute site visits, or for any other official use. This right also includes timely and reasonable access to the recipient's or subrecipient's personnel for the purpose of interview and discussion related to such documents or the Federal award in general.

(b) ***Extraordinary and rare circumstances.*** The recipient or subrecipient and Federal agency or pass-through entity must take measures to protect the name of victims of a crime when access to the victim's name is necessary. Only under extraordinary and rare circumstances would such access include a review of the true name of victims of a crime. Routine monitoring cannot be considered extraordinary and rare circumstances that would necessitate access to this information. Any such access, other than under a court order or subpoena pursuant to a bona fide confidential investigation, must be approved by the head or delegate of the Federal agency.

(c) ***Expiration of right of access.*** The Federal agency's or pass-through entity's rights of access are not limited to the required retention period of this part but last as long as the records are retained. Federal agencies or pass-through entities must not impose any other access requirements upon recipients and subrecipients.

§ 200.334 Record retention requirements.

The recipient and subrecipient must retain all Federal award records for three years from the date of submission of their final financial report. For awards that are renewed quarterly or annually, the recipient and subrecipient must retain records for three years from the date of submission of their quarterly or annual financial report, respectively. Records to be retained include but are not limited to, financial records, supporting documentation, and statistical records. Federal agencies or pass-through entities may not impose any other record retention requirements except for the following:

(a) The records must be retained until all litigation, claims, or audit findings involving the records have been resolved and final action taken if any litigation, claim, or audit is started before the expiration of the three-year period.

(b) When the recipient or subrecipient is notified in writing by the Federal agency or pass-through entity, cognizant agency for audit, oversight agency for audit, or cognizant agency for indirect costs to extend the retention period.

(c) The records for property and equipment acquired with the support of Federal funds must be retained for three years after final disposition.

(d) The three-year retention requirement does not apply to the recipient or subrecipient when records are transferred to or maintained by the Federal agency.

(e) The records for program income earned after the period of performance must be retained for three years from the end of the recipient's or subrecipient's fiscal year in which the program income is earned. This only applies if the Federal agency or pass-through entity requires the recipient or subrecipient to report on program income earned after the period of performance in the terms and conditions of the Federal award.

(f) The records for indirect cost rate computations or proposals, cost allocation plans, and any similar accounting computations of the rate at which a particular group of costs is chargeable (such as computer usage chargeback rates or composite fringe benefit rates) must be retained according to the applicable option below:

(1) ***If submitted for negotiation.*** When a proposal, plan, or other computation must be submitted to the Federal Government to form the basis for negotiation of an indirect cost rate (or other standard rates), then the three-year retention period for its supporting records starts from the date of submission.

(2) ***If not submitted for negotiation.*** When a proposal, plan, or other computation is not required to be submitted to the Federal Government to form the basis for negotiation of an indirect cost rate (or other standard rates), then the three-year retention period for its supporting records starts from the end of the fiscal year (or other accounting period) covered by the proposal, plan, or other computation.

Attachment F

On-the-Job Training Requirements for Public Funding Relevant to the Workforce Investment Career Center System

This document contains On-the-Job Training (OJT) requirements for compliance and eligibility for three different funding streams: Workforce Investment Act (WIA); Trade Adjustment Assistance (TAA); and New York State On-the-Job Training National Emergency Grant/ (OJT-NEG).

Workforce Investment Act OJT Requirements

WIA defines OJT as training provided by a business to a paid participant while engaged in productive work in a job that:

- Provides knowledge or skills essential to the full and adequate performance of the job;
- Provides reimbursement to the business of up 50% of the wage rate of the OJT participant, for the extraordinary costs of providing the training and additional supervision related to the training, and
- Is limited in duration as appropriate to the occupation for which the OJT participant is being trained, taking into account the content of the training, the prior work experience of the participant, and the individualized employment plan of the participant, as appropriate.

Note: New York State has periodically been granted OJT related waivers from USDOL/ETA that have allowed an increase in business reimbursement for OJT above the standard 50% of wages. Please contact WDTD.Onestop@labor.ny.gov to see if an OJT waiver is currently available.

OJT is provided under a *contract* with a business in the public, private non-profit, or private sector. OJT payments to businesses are deemed to be compensation for the extraordinary costs associated with training participants and the costs associated with the lower productivity of the participants. Businesses are not required to document such extraordinary costs.

OJT contracts may *not* be entered into with a business that has previously exhibited a pattern of failing to provide OJT participants with continued long-term employment with wages, benefits, and working conditions that are equal to those provided to regular employees who have worked a similar length of time and are doing the same type of work.

OJT contracts may be written for eligible *employed* workers when:

- The employee is not earning a self-sufficient wage as determined by Local Workforce Investment Board (LWIB) policy; and
- The OJT relates to the introduction of new technologies, introduction to new production or service procedures, upgrading to new jobs that require additional skills, workplace literacy, or other appropriate purposes identified by the LWIB.

Individuals in WIA-funded OJT must be:

- Compensated at the same rates, including periodic increases, as trainees or employees who are similarly situated in similar occupations by the same business and who have similar training, experience and skills;
- Provided benefits and working conditions at the same level and to the same extent as other trainees or employees working a similar length of time and doing the same type of work;

- Subject to the same health and safety standards established under federal and state law that are applicable to the working conditions of other employees;
- Provided with workers' compensation on the same basis as the compensation is provided to other individuals in the State in similar employment.

Individuals may *not* be placed in OJT if a member of that person's immediate family is directly supervised by or directly supervises that individual.

OJT reimbursements are made for *training*. As such, reimbursements may not be paid when the trainee was paid holiday, vacation or sick pay.

WIA funds may *not* be used for:

- The encouragement or inducement of a business, or part of a business, to relocate from any location in the United States, if the relocation results in any employee losing his or her job at the original location;
- Customized training, skill training, or OJT or company-specific assessment of job applicants or employees of a business or a part of a business that has relocated from any location in the United States, until the company has operated at the location for 120 days, if the relocation has resulted in any employee losing his or her job at the original location;
- Training individuals in sectarian activities; or
- Direct or indirect assistance, promotion or deterrence of union organizing.

WIA-funded employment and training activities must *not*:

- Displace (including a partial displacement, such as a reduction in the hours of non-overtime work, wages or employment benefits) any currently employed employee;
- Impair existing contracts for services or collective bargaining agreements -- when a particular program or activity would be inconsistent with a collective bargaining agreement, the appropriate labor organization and business must provide written concurrence before the program or activity begins;
- Result in a participant being employed or assigned to a job if:
    - Any other individual is on layoff from the same or substantially equivalent job;
    - The business has terminated the employment of any regular, unsubsidized employee or otherwise caused an involuntary reduction in its workforce with the intention of filling the vacancy created with the WIA participant; or
    - The job is created in a promotional line that infringes in any way on the promotional opportunities of currently employed workers.
- Be used to carry out the construction, operation or maintenance of any part of a facility that is used or to be used for sectarian instruction or as a place for religious worship.

On-the-Job Training National Emergency Grant (OJT-NEG)

- OJT-NEG positions can be developed with private for-profit and not-for-profit businesses
- Trainees for the program must be long-term dislocated workers, defined as those who have been unemployed for 20 weeks or more, and have been unemployed since January 1, 2008.
- OJT-NEG funds may not be used to make needs related payments.
- OJTs funded with NEG funds are subject to WIA OJT guidelines with the following exceptions:
    - USDOL/ETA has set a 6 month limit on OJTs funded with OJT-NEG funding. USDOL/ETA has also prohibited the co-enrollment of participants in any other ETA-funded program (including WIA) for the purpose of extending training beyond 6 months.
    - The training reimbursement level may not exceed a percentage (typically 50% up to 90%) of the state's average wage rate. For the most up to date wage info, please email OJT-NEG@labor.ny.gov.
    - LWIAs are allowed to reimburse up to 90% of an OJT participant's wage rate based on the business size as follows:
        - Small business: 1-50 employees – Up to 90% reimbursement.
        - Medium business: 51-250 employees – Up to 75% reimbursement.
        - Large business: 251 and more employees – Up to 50% reimbursement (current WIA standard).
    - Each OJT-NEG candidate must have a skills gap analysis completed using JobZone to assess their skills.
- USDOL has created a dedicated OJT-NEG web page, http://www.doleta.gov/layoff/Job_Training.cfm. There are a number of useful resources, including an OJT Tool Kit and a Q and A section.

Trade Adjustment Assistance OJT Requirements

To qualify for any TAA training, including on-the job training, staff must determine that the eligible adversely affected worker meets the following six requirements:

1. There is no suitable employment (which may include technical and professional employment) available for the adversely affected worker.
2. The worker would benefit from appropriate training.
3. There is a reasonable expectation of employment following completion of such training.
4. Approved training is reasonably available to the worker from either governmental agencies or private sources (which may include area vocational education schools, as defined in section 195(2) of the Vocational Education Act of 1963, and businesses).
5. The worker is qualified to undertake and complete such training.
6. Training is suitable for the worker and available at a reasonable cost.

In addition, OJT must:

- reasonably be expected to lead to suitable employment with the business offering the OJT;

- be compatible with the skills of the worker;
- include a curriculum through which the worker will gain the knowledge or skills to become proficient in the job for which the worker is being trained; and
- be measured by benchmarks that indicate that the worker is gaining such knowledge or skills.

OJT under TAA is limited to the period of time required for the worker receiving OJT to become proficient in the job for which the worker is being trained, but may not exceed 104 weeks. The OJT contract must take into consideration the skill requirements of the job for which the worker is being trained, the academic and occupational skill level and the work experience of the worker. Classroom training is allowed, but only if it is mandated as part of the developed OJT program. Under such circumstances, TAA will pay up to 50% of the cost of the mandated course.

New York State has established the following caps on the amount of TAA funds that may be used for training:

- Programs Up to 52 weeks - $10,000Programs in excess of 52 weeks, up to104 weeks - $20,000

Caps represent the total amount of TAA funds that can be approved. The total cost of training may exceed these caps but availability of other funding sources, such as WIA and PELL must be explored. Unexpended funds are to be de-obligated when training is complete or terminated. Payments of up to 50% of the trainees' wages may be paid in monthly installments to reimburse businesses for the cost of providing training and additional supervision related to the training.

An OJT contract may *not* be entered into with a business that:

- exhibits a pattern of failing to provide workers receiving OJT with:
    - continued, long-term employment as regular employees, and
    - wages, benefits, and working conditions that are equivalent to the wages, benefits, and working conditions provided to regular employees who have worked a similar period of time and are doing the same type of work as workers receiving OJT from the business; or
- has received TAA training funds and violated any of the labor standards outlined in the next section.

TAA-funded OJT must not:

- Displace (including a partial displacement, such as a reduction in the hours of non-overtime work, wages, or employment benefits) any currently employed employee;
- Impair existing contracts for services or collective bargaining agreements -- when a particular program or activity would be inconsistent with a collective bargaining agreement, the appropriate labor organization and business must provide written concurrence before the program or activity begins;

- Result in a participant being employed or assigned to a job if:
  - Any other individual is on layoff from the same or any substantially equivalent job;
  - The business has terminated the employment of any regular, unsubsidized employee or otherwise caused an involuntary reduction in its workforce with the intention of filling the vacancy created with the TAA participant;
  - The job is created in a promotional line that infringes in any way on the promotional opportunities of currently employed workers;
  - The affected worker already possesses the specific skills necessary for the occupation identified in the training outline of the written TAA-OJT agreement as determined in the assessment/approval process;
  - The training is for the same occupation from which the worker was separated and TAA certified.

New York State Department of Labor
W. Averell Harriman State Office Campus
Building 12, Room 440, Albany, NY 12226
www.labor.ny.gov

Workforce Development System
Technical Advisory #18-04
May 9th, 2018

To: Workforce Development Community

Subject: Processing Non-Criminal Complaints/Grievances under Title I of the Workforce Innovation and Opportunity Act (WIOA)

Purpose

Inform Local Workforce Development Boards (LWDBs) of the responsibility to ensure complaint/grievance procedures for processing of non-criminal complaints and grievances related to Title I of Workforce Innovation and Opportunity Act (WIOA) are in place for each LWDB, Local Workforce Development Area (LWDA), outlying area, and direct recipient of funds under WIOA Title I.

This Advisory does not cover complaints or grievances relating to either Wagner-Peyser Title III or WIOA Section 188 (the Equal Opportunity and Nondiscrimination Policy). Guidance on these topics are provided separately.

Rescind and replace Workforce Development System Technical Advisory (WDS TA #00-40) "Procedure for Processing Non-Criminal Complaints and Grievances at the Local Workforce Investment Area (Local Area) Level," (10/16/2000), WDS TA# 00-40, Revision #1, and Additional Information to WDS TA# 00-40.1 (12/04/2000).

Policy

All direct recipients of WIOA Title I funds must have a complaint/grievance procedure in place and must provide information about the content of the complaint/grievance procedure to all participants and other interested parties. This includes, but is not limited to, LWDBs, NYS Career Center partners, service providers, and programs operated by subcontractors in the LWDA.

Participants must be informed of the complaint resolution process at their initial NYS One-Stop Career Center intake.

Complaints/grievances must be filed within one year of the alleged occurrence.

Action

LWDBs, NYS Career Center partners, service providers, and programs operated by subcontractors in the LWDA must implement the complaint/grievance procedure outlined in **Attachment A: WIOA Title I Complaint/Grievance Procedure**. The procedure includes the handling of complaints/grievances arising in connection with WIOA Title I programs operated in their LWDA. Attachment A may be completed and provided to customers as notification of the grievance procedure, and includes a flowchart depicting the procedure.

LWDBs must appoint a Local Area Grievance Officer and Local Level Hearing Officer. These officers are responsible for investigating the complaint/grievance and seeking resolution. Career Center Managers should be consulted regarding the appointments. The names of the Local Area Grievance Officers and Local Level Hearing Officers are to be submitted to WIOA.Grievance.Procedure@labor.ny.gov via **Attachment B: Local Area Grievance Officers/Local Level Hearing Officers Form** by Thursday, May 31, 2018. In the event the position is vacated; a replacement must be appointed and submitted in the same fashion.

In addition, the following attachments provide information to assist in the implementation of a complaint/grievance process.

- **Attachment C: Customer Complaint Information Form**. This is the same complaint form used for Employment Service (Title III) complaints.
- **Attachment D: Sample Complaint/Grievance Log**. This log contains the minimum elements for tracking purposes.
- **Attachment E: Local Hearing and Decision – Required Elements**. Lists the required components of a formal hearing and the decision based on the hearing.

REFERENCES

WIOA Section 181(c)

20 CFR 683.600

INQUIRIES

Please direct any inquiries to: WIOA.Grievance.Procedure@labor.ny.gov.

ATTACHMENTS

A. WIOA Title I Complaint/Grievance Procedure

B. Local Area Grievance Officers/Local Level Hearing Officers Form

C. Customer Complaint Information Form

D. Sample Complaint/Grievance Log

E. Local Hearing and Decision – Required Elements

New York State Department of Labor
W. Averell Harriman State Office Campus
Building 12, Room 440, Albany, NY 12226
www.labor.ny.gov

Workforce Development System
Technical Advisory #22-01.1
March 7, 2024

To: Workforce Development Community

Subject: Implementation of Workforce Innovation & Opportunity Act (WIOA) Equal Opportunity (EO) and Nondiscrimination Policy and Complaint Processing Procedures

Purpose

Advise the New York State (NYS) workforce development system of the current WIOA EO and Nondiscrimination Policy and Complaint Processing Procedures established by the New York State Department of Labor (NYSDOL).

Policy

The NYS workforce development system must adopt EO and nondiscrimination policy and complaint processing procedures and responsibilities in accordance with WIOA Section 188.

Each Local Workforce Development Area (LWDA) must designate a local EO Officer to handle EO and discrimination complaints.

Participant notification of EO and nondiscrimination rights must be data entered in the One-Stop Operating System (OSOS).

Action

A. EO and Nondiscrimination Responsibilities

All NYS workforce development system staff must be apprised of and follow the WIOA EO and nondiscrimination policy and complaint processing procedures outlined in **Attachment A: Workforce Innovation and Opportunity Act (WIOA) Equal Opportunity (EO) and Nondiscrimination Policy and Complaint Processing Procedures.**

B. LWDA EO Officer

Each Local Workforce Development Board (LWDB) was required to initially designate an LWDA EO Officer in April 2022 by completing and submitting **Attachment B: Local Workforce Development Area (LWDA) Designated Equal Opportunity (EO) Officer Information Form.** Should the designated LWDA EO Officer change, a new **Attachment B** must be submitted to NYSDOL's Division of Equal Opportunity Development (DEOD) at DEOD@labor.ny.gov.

Per WIOA regulations at 29 CFR Part 38, "a senior level employee" should be appointed as the LWDA EO Officer, and they "must not have other responsibilities or activities that create a conflict, or the appearance of a conflict with the responsibilities of an EO Officer." The LWDA EO Officer should be able to adequately accomplish all of their responsibilities under the EO and nondiscrimination provisions of WIOA, including, but not limited to:

- Handling discrimination complaints at the lowest level per the complaint and mediation procedures detailed in **Attachment A**;
- Serving as a WIOA Title I recipient's liaison to NYSDOL;
- Monitoring and investigating the recipient's activities and those of the entities that receive Title I funds from the recipient;
- Reviewing the recipient's written EO and nondiscrimination policies;
- Developing and publishing the recipient's procedures for processing discrimination complaints;
- Reporting directly to the appropriate official;
- Undergoing training to maintain competency; and
- Training recipient staff in EO and nondiscrimination policies.

DEOD will maintain a list of each LWDA EO Officer in the State and submit the list to the United States Department of Labor (USDOL) upon request. LWDBs must continue to submit updated information to DEOD, via **Attachment B**, when LWDA EO Officer changes are made.

Note: The LWDA EO Officer's name, position/title, address, and telephone number (including Telecommunications Device for the Deaf (TDD) and Teletype) must be made public and posted in the local Career Center(s).

C. EO and Nondiscrimination Data Entry

All participants receiving an initial assessment and/or an orientation to workforce development system services must be apprised of their rights under the EO and nondiscrimination provisions of WIOA. When this occurs, documentation must be entered in OSOS. Information on data entering this information in OSOS can be found in the Equal Opportunity OSOS Guide available on the NYSDOL website.

Background

WIOA Section 188 prohibits discrimination because of race, color, religion, sex (including pregnancy, childbirth, and related medical conditions, transgender status, and gender identity), national origin (including limited English proficiency (LEP) individuals), age, disability, political affiliation or belief, or against beneficiaries on the basis of either citizenship status or participation in any WIOA Title I-financially assisted program or activity.

WIOA Section 188 updates Workforce Investment Act (WIA) Section 188 by including the following provisions:

- **LEP:** Discrimination based upon LEP may be unlawful discrimination based on national origin. WIOA recipients must take reasonable steps to provide meaningful access to programs and activities for LEP individuals by providing written translation or oral interpretation when appropriate;
- **Individuals with Disabilities:** In accordance with the Americans with Disabilities Act Amendments of 2008, the definition of "disability" is to be interpreted broadly. This enables more individuals with disabilities to be effectively served within the workforce development system;
- **Transgender Status, Gender Identity, and Sex-Stereotyping:** Discrimination on the basis of transgender status, gender identity, or sex-stereotyping are forms of prohibited sex discrimination, in accordance with similar civil rights laws. Sex discrimination includes discrimination based on pregnancy, childbirth, and related medical conditions, in accordance with the Pregnancy Discrimination Act of 1978, which amended Title VII of the Civil Rights Act of 1964, and Title IX of the Education Amendments of 1972; and
- **Modernization:** WIOA recipients must also utilize electronic and information technology which incorporates accessibility features for individuals with disabilities.

WIOA also provides that accommodations must be made for an individual's religious practices or beliefs unless such accommodations would result in "undue hardship." Examples of religious accommodations include schedule changes or leave for religious observances; exemptions from or modifications to uniform, dress, or grooming requirements that conflict with religious practices; or providing a quiet area for prayer during break time.

In addition to religious accommodations and protections from discrimination under Section 188 of WIOA, individuals are also protected from discrimination under Title VI of the Civil Rights Act of 1964 (Title VI). Title VI applies to all programs or activities receiving federal financial assistance, including but not limited to entities that receive financial assistance under WIOA and/or the Wagner-Peyser Act, and prohibits discrimination on the basis of race, color, or national origin. Examples of such discrimination include racial, ethnic, or ancestral slurs or stereotypes; comments on a person's appearance including their skin color, features, or attire that may reflect ethnic or religious heritage; and comments about a person's foreign accent or the fact that they speak a language other than English. In the context of covered programs or activities, the prohibition on discrimination includes denying or limiting a person any opportunity to participate; subjecting a person to segregation or separate treatment; or providing a person with any aid, benefit, service, or training that is different or provided in a different manner from that provided to others.

REFERENCES

WIOA Section 188

WIOA EO Regulations at 29 CFR Part 38

Title VI of the Civil Rights Act

United States Department of Labor (USDOL) website

USDOL Civil Rights Center

NYS Nondiscrimination Plan

Equal Opportunity OSOS Guide

Training and Employment Guidance Letter (TEGL) No. 05-23

INQUIRIES

Questions regarding implementation of the EO and Nondiscrimination Policy and Complaint Processing Procedures may be directed to:

Director
New York State Department of Labor
Division of Equal Opportunity Development
W. Averell Harriman State Office Campus
Building 12, Room 540
Albany, NY 12226

Email inquiries may be sent to: DEOD@labor.ny.gov.

ATTACHMENTS

A. Workforce Innovation and Opportunity Act (WIOA) Equal Opportunity (EO) and Nondiscrimination Policy and Complaint Processing Procedures

B. Local Workforce Development Area (LWDA) Designated Equal Opportunity (EO) Officer Information Form

WORKFORCE INNOVATION AND OPPORTUNITY ACT (WIOA) EQUAL OPPORTUNITY (EO) AND NONDISCRIMINATION POLICY AND COMPLAINT PROCESSING PROCEDURES

The New York State Department of Labor (NYSDOL), as designated by the Governor as the administrator of WIOA Title I funds, does hereby adopt and publish the complaint processing procedures for filing a discrimination complaint under Section 188 of WIOA applicable to all recipients as defined in 29 CFR Part 38 and below.

I. BACKGROUND

Section 188 of WIOA provides that no individual will be excluded from participation in, denied the benefits of, subjected to discrimination under, or denied employment in the administration of or in connection with, any such WIOA Title I-financially assisted program or activity because of race, color, religion, sex (including pregnancy, childbirth, and related medical conditions, transgender status, and gender identity), national origin (including limited English proficiency (LEP) individuals), age, disability, or political affiliation or belief, or for any beneficiary, because of the beneficiary's citizenship status as a lawfully admitted immigrant authorized to work in the United States. The WIOA regulations at 29 CFR Part 38 clarify the nondiscrimination and EO provisions. Examples of discriminatory acts specifically prohibited, other than those based on a disability, are set forth in 29 CFR Section 38.6. The regulatory requirements associated with employment practices and communication with individuals with disabilities are set forth in 29 CFR Section 38.12.

II. POLICY

It is the policy of NYSDOL to ensure EO and nondiscrimination in the operation and administration of all programs, services, and activities funded in whole or in part with WIOA funds. Any individual covered by WIOA who believes he or she, or a specific class of individuals, has been discriminated against has the right to file a formal complaint in accordance with the procedures set forth herein. Recipients of Title I WIOA funds must take appropriate steps to ensure they are providing universal access to their programs and activities. Efforts recommended to ensure this type of access are set forth in 29 CFR Section 38.40. If an issue arises that relates to a language barrier, 29 CFR Section 38.9 should be followed.

III. DEFINITIONS

29 CFR Section 38.4 contains the definitions of the terms used in the implementation of the EO and nondiscrimination requirements of WIOA. For convenience, some of the definitions found in that section are listed below. If a conflict exists between a term, as it is defined in this policy and 29 CFR Section 38.4, the definition in 29 CFR Part 38.4 is controlling.

A. **Applicant** is an individual who is interested in being considered for WIOA Title I-financially assisted aid, benefits, services, or training by a recipient, and who has signified that interest by submitting personal information in response to a request by a recipient.

B. **Applicant for employment** is a person who applies for employment with a recipient of Federal financial assistance under WIOA Title I.

C. **Beneficiary** is the person or persons intended by Congress to receive benefits or services from a recipient.

D. **Complainant** is the individual or entity who files a complaint of discrimination. See Part V.B. (1) of this Policy regarding who may file a complaint.

E. **CRC** is the Civil Rights Center of the United States Department of Labor (USDOL), 200 Constitution Avenue, NW, Room N-4123, Washington, DC 20210.

F. **Department** means USDOL, including its Agencies and Organizational Units.

G. **Disability and Qualified Individual with a Disability**. See 29 CFR Section 38.4.

H. **Eligible applicant/registrant** is an applicant who has been determined eligible to participate in one or more WIOA Title I-financially assisted programs or activities.

I. **Entity** is any person, corporation, partnership, joint venture, unincorporated association, or State or local government, and any agency, instrumentality or subdivision of such a government (29 CFR Section 38.4 contains a partial list of entities that are considered recipients).

J. **Employment Services (ES) Complaint Specialist** is an employee of NYSDOL in the Career Center system designated to handle certain initial complaints for matters related directly to NYSDOL programs.

K. **Equal Opportunity Officer (EO Officer)** is the individual responsible for coordinating a recipient's obligations under 29 CFR Part 38. In New York State, this includes the person designated by the Governor as the State WIOA EO Officer and the person designated by the Local Workforce Development Board of each Local Workforce Development Area (LWDA EO Officer).

L. **LWDA Grant Recipient** means the entity that receives WIOA Title I financial assistance for an LWDA directly from the Governor and disburses those funds for workforce development activities.

M. **Participant** is an individual who has been determined to be eligible to participate in and who is receiving aid, benefits, services or training under a program authorized by Title I of WIOA. Examples of who qualifies as a participant are listed in 29 CFR 38.4. Participation will be deemed to commence on the first day, following determination of eligibility, on which the participant began receiving subsidized aid, benefits, services, or training provided under Title I of WIOA.

N. **Recipient** is an entity to which financial assistance under WIOA Title I is extended, either directly from the Department or through the Governor or another recipient (including any successor, assignee, or transferee of a recipient), but excluding the ultimate beneficiaries of the WIOA Title I-funded program or activity. Recipients are listed in 29 CFR 38.4.

O. **Respondent** is the individual or entity against whom an EO or discrimination complaint is filed.

P. **Service Provider**. See 29 CFR Section 38.4.
(Telecommunications Device for the Deaf (TDD) 1-800-662-1220; VOICE 1-800-421-1220).

Q. Small recipient is a recipient who serves a total of fewer than 15 beneficiaries during the entire grant year and employs fewer than 15 employees on any given day during the entire grant year.

R. State WIOA EO Officer is the Director of NYSDOL's Division of Equal Opportunity Development (DEOD).

S. WIOA Title I-funded program or activity. See 29 CFR Section 38.4.

IV. DISSEMINATION OF AND NOTICE OF NONDISCRIMINATION

A recipient of WIOA grant funds will provide initial and continuing notice that it does not discriminate on any prohibited ground, to subrecipients that receive WIOA Title I funds from the recipient, registrants, applicants, eligible applicants/registrants, participants, applicants for employment, employees, and members of the public, including those with impaired vision or hearing, and unions or professional organizations holding collective bargaining or professional agreements with recipient. The notice will contain the language prescribed in 29 CFR Section 38.35.

A. POSTING OF NOTICE

The notice of Equal Opportunity is the Law must be posted prominently, in reasonable numbers and places; disseminated in internal memoranda and other written or electronic communications; included in handbooks or manuals; and made available to each participant and documented in the participant's electronic or paper case record (e.g., the One-Stop Operating System (OSOS)). The notice must be provided in appropriate formats to individuals with visual impairments and a record that such notice has been given must be made a part of the participant's record.

B. NOTICE IN BROCHURES AND OTHER MATERIALS

The notice contained in recruitment brochures and other materials, which are ordinarily distributed to the public in written and/or oral form, electronically and/or on paper to describe programs funded by Title I of WIOA or the requirements for participation by recipients and participants, must contain the language prescribed in 29 CFR Section 38.38(a). If these materials indicate that the recipient can be reached by telephone, the materials must state the telephone number of the TDD/Teletype or relay service used by the recipient.

C. NOTICE IN NEWS MEDIA

Any information published or broadcast in the news media must contain the language prescribed in 29 CFR Section 38.38(b).

D. NOTICE IN ORIENTATION PRESENTATIONS

During orientation presentations and/or during initial assessments for new participants, new employees, and/or the general public regarding the recipient's Title I WIOA-financially assisted programs or activities, the recipient will include a discussion of an individual's rights under the nondiscrimination and EO provisions of WIOA and 29 CFR Part 38. They will also be informed of their right to file a complaint of discrimination with the LWDA EO Officer or the Director of the CRC.

V. PROCEDURES FOR COMPLAINTS AND INVESTIGATIONS

A. LWDA EO Officer

1. All local areas will designate an LWDA EO Officer to coordinate its responsibilities under this Act in accordance with 29 CFR Section 38.28. Recipients must comply with the procedures for processing complaints and investigations set forth herein and cooperate with the LWDA EO Officer.
2. Service providers will follow the procedures set forth in this policy when a complaint of discrimination is received.
3. An LWDA EO Officer must not have other responsibilities or activities that create a conflict of interest, or the appearance of a conflict, with the responsibilities of an LWDA EO Officer.

B. Complaints

1. **Who may file**. Any person who believes they or any specific class of individuals has been or is being subject to discrimination prohibited by the EO and nondiscrimination provisions of WIOA or the regulations may personally file a written complaint or file a written complaint through a representative.
2. **Where to file.** The complaint may be filed either with the LWDA EO Officer or directly to the Director of the CRC at U.S. Department of Labor, 200 Constitution Avenue, Room N-4123, Washington, DC 20210.

   Complaints made involving NYSDOL programs should be filed directly with the State WIOA EO Officer at New York State Department of Labor, Division of Equal Opportunity Development, State Office Campus, Building 12, Room 540, Albany, NY 12240; or through the designated ES Complaint Specialist in the Career Center.
3. **Time for filing**. A complaint filed pursuant to this part must be filed within one-hundred eighty (180) days of the alleged discrimination. The Director of the CRC may extend the filing time if the EO Officer does not include in its Notice of Final Action the required notice about the complainant's right to file with the Director or for good cause shown.
4. **Contents of complaints**. Each complaint must be filed in writing in a form prescribed by the State WIOA EO Officer or Director (complaints filed with the CRC) and must:
   a. Contain the complainant's name and address (or specify another means of contacting them);
   b. Identify the respondent's name and address (the individual or entity that the complainant alleges is responsible for the discrimination);
   c. Date of occurrence;
   d. Describe the complainant's allegations in sufficient detail to allow the Director of the CRC or LWDA EO Officer to determine whether:
      i. The CRC, the State WIOA EO Officer, or the LWDA EO Officer, as applicable, has jurisdiction over the complaint; and
      ii. The complaint was timely filed; and

iii. The complaint has apparent merit (whether the complainant's allegations, if true, would violate any of the EO and nondiscrimination provisions of WIOA).

e. Be signed by the complainant or their authorized representative.

5. **Complaint Forms.** The State WIOA EO Officer shall provide a Complaint Information Form to each LWDA EO Officer and recipient to be maintained and used in filing a complaint hereunder.

6. **Right to Representation.** Each complainant and respondent has the right to be represented by an attorney or other individual of their own choice.

7. **Complaint processing.** Upon receipt of a written complaint, the LWDA EO Officer must provide a written acknowledgement within five (5) days of receipt of the complaint with notice that the complainant has the right to be represented in the complaint process. The LWDA EO Officer will have ninety (90) days from the date of receipt of a written complaint to process the complaint. All complaints must be date stamped upon receipt and forwarded to the appropriate LWDA EO Officer for processing. The State WIOA EO Officer will monitor the processing of all complaints, including the established time limits for processing a complaint.

   a. If the complaint is filed with the LWDA EO Officer, the LWDA EO Officer will assign a case number, log the complaint, and commence the complaint process.

      If a complaint filed with the LWDA EO Officer involves a program administered by NYSDOL, the LWDA EO Officer will log the complaint and forward it to the State WIOA EO Officer for processing.

   b. If the complaint is filed with the State WIOA EO Officer or ES Complaint Specialist, and involves a program or activity administered by the recipient or a partner in the Career Center system, the State WIOA EO Officer will immediately notify the LWDA EO Officer and forward the complaint for processing. If a complaint is related to programs administered by NYSDOL, the State WIOA EO Officer shall retain the complaint for processing.

8. **Confidentiality of complaint.** The respondent, individual or entity against whom the complaint is filed, will receive a letter within fifteen (15) days of receipt of the complaint indicating that a complaint has been filed against them and on what basis, and will be notified that they have the right to representation. The respondent will be allowed the opportunity to respond to the allegation(s) during the investigation. The name of the complainant will only be released to the extent necessary to investigate and fairly determine the issues raised in the complaint.

9. **Confidentiality of witnesses.** The identity of any individual who furnishes information relating to, or assisting in, an investigation of a complaint or a compliance review will only be released to the extent necessary to investigate and fairly determine the issues raised in the complaint or as otherwise required by law.

10. **Prohibition against intimidation or retaliation.** See Part VI of this Policy.

11. **Computation of time.** In computing any time period as prescribed by these rules, the first day shall be excluded and the last day included to complete the period. In addition, the time periods are counted in calendar days, not business days.

12. Notification to the Complainant

a. **Notification of no jurisdiction.** The LWDA EO Officer will notify the complainant within fifteen (15) days of receipt of the complaint in writing if it determines that it does not have jurisdiction over a complaint that alleges a violation of the EO and nondiscrimination provisions of WIOA. The notification will also include the basis for such determination, as well as a statement of the complainant's right to file a written complaint with the Director of the CRC within thirty (30) days of the receipt of the notification. This notice will be sent to the complainant and respondent by certified mail and a copy of the notice will be sent to the State WIOA EO Officer.

b. **Statement of issues.** If the LWDA EO Officer that receives the complaint has jurisdiction, they will notify the complainant within fifteen (15) days of the date of receipt of the complaint in writing. The letter will advise the complainant of the list of issues raised in the complaint and of their right to be represented in the complaint process. In addition, the complainant will be advised of which issues will be accepted for investigation and the reason for each issue not accepted. The complainant will be notified that they have the option of resolving the complaint through a fact-finding/investigation process or alternative dispute resolution (ADR).

If the complaint is filed with the LWDA EO Officer, the statement of issues will be sent to the complainant by certified mail and a copy of the notice will be sent to the State WIOA EO Officer. The respondent will receive a letter (certified mail) notifying them that a complaint has been filed against them, on what basis (race, gender etc.), and will be notified that they have the right to be represented during the investigation. The LWDA EO Officer that receives the complaint will also notify the complainant and respondent of the prohibition against retaliation and intimidation set forth in Part VI of this Policy.

c. **Informal meeting/Resolution.** The LWDA EO Officer may meet with the complainant or their representative, within fifteen (15) days from the date of receipt of the written complaint, to informally discuss and clarify the issues. During this process, the LWDA EO Officer may, in appropriate cases, offer a resolution of the matter, provided the LWDA EO Officer files a Notice of Final Action in accordance with section V(C)(4) herein. If the complainant is not satisfied with the informal resolution, the complainant may proceed with a full investigation or request ADR.

C. Resolution of Complaints

1. **Options**. The complainant has the option of resolving their complaint through a full fact-finding/investigation process or ADR. If the complainant chooses the ADR option, they must notify the LWDA EO Officer within ten (10) days of receipt of the Statement of Issues. If no response is received, the LWDA EO Officer will continue to investigate the complaint.

2. **Fact-Finding/Investigation Process**. If the complainant chooses the full fact-finding/investigation process, the entity that receives the complaint will conduct a full review of the matter, including giving the complainant and the respondent the opportunity to respond to all the evidence presented. A complaint investigation or fact-finding includes the following elements:

a. Interview the complainant to gather facts;

b. Ask the complainant for the names, addresses, and phone numbers of people who are knowledgeable about the situation. The LWDA EO Officer should contact the potential witnesses to request interviews;

c. Collect any evidence the complainant has to support their allegation(s);

d. State the resolution sought by the complainant;

e. Assure the complainant that only those who have a "need to know" will be told anything. Who must be told is decided on a case-by-case basis and generally includes managers, supervisors, and witnesses, to the extent necessary to obtain information;

f. The investigator should make certain strategic decisions as to which witnesses to interview for which purpose:

    i. First, individuals should be interviewed who have firsthand knowledge;

    ii. Second, individuals should be interviewed who were directly involved in the situation that the complainant has alleged occurred; and

    iii. Third, individuals who have second-hand knowledge should be interviewed later if deemed necessary by the investigator.

    Optional: Ask the witnesses to sign and date the notes of the interviews at the time of the interviews or, alternatively, prepare statements based on interview notes and ask the witnesses to sign and date the prepared statement.

g. In the interview with the complainant, the Local EO Officer may wish to obtain a signed statement from the complainant that they received important documents that the recipient asserts they gave the complainant, such as disciplinary warnings, requests for documents, or notification of deadlines;

    Optional: Ask the complainant to sign and date the notes of the interview at the time of the interview or, alternatively, prepare a statement based on interview notes and ask the complainant to sign and date the prepared statement.

h. Interview the respondent to gather facts;

    Ask the respondent for the names, addresses, and phone numbers of people who are knowledgeable about the situation. The Local EO Officer should contact the potential witnesses to request interviews.

    Optional: Ask the respondent to sign and date the notes of the interview at the time of the interview or, alternatively, prepare a statement based on interview notes and ask the respondent to sign and date the prepared statement.

i. Review documents, reports, correspondence, personnel records and policies/procedures related to activities which gave rise to the allegation of discrimination;

j. If additional allegations are made during the investigation, or other pertinent information is discovered, inform the respondent and give them a chance to respond, following the format of the original investigation;

k. A witness will make statements based not upon what they know, but upon what they heard. Such hearsay information is not "evidence," since its credibility depends upon another person or source. However, it may have relevance to the investigation. Therefore, hearsay evidence should not be eliminated, but should be used if appropriate to lead to sources that will allow the information to be used as evidence;

l. Prepare an investigatory report that includes statement of basis of complaint, specific allegations, respondent(s) response and witness statements, findings of fact, rationale and conclusion (probable cause or no probable cause that respondent may have discriminated) and appeal rights;

m. Any additional information essential to understanding of the specific matter of the case or environment in which it occurred;

n. The respondent's position statement including their account of the facts and the respondent's agreement or disagreement with each of the complainant allegations;

o. The respondent can produce documentation for review in their defense; and

p. Maintain a complaint file and complaint log with reference number.

3. **Alternative Dispute Resolution (ADR) Process**. If the complainant chooses the ADR method, the LWDA EO Officer will refer the matter to an impartial mediator approved by the LWDA EO Officer. The complainant will be advised that mediation is voluntary. Both parties will be advised that they must participate in the mediation in good faith but will not be required to reach an agreement.

   a. Notice of Mediation Conference. Written confirmation of the mediation conference will be sent to each party within (ten) 10 days of the date of mediation. The notice will include the date, time, and location of the mediation conference and a statement of the issues to be mediated. If the complainant and respondent are represented, they are responsible for providing that person with notice of the mediation.

   b. Confidentiality. Mediation sessions will be closed to any individual other than the parties and their representatives, except by consent of both the parties and the mediator. Communication and information disclosed during the mediation is privileged and confidential and shall not be disclosed to a third party, except for purpose of implementation or enforcement, or by written agreement of both parties. During the mediation process, notes may be taken. However, once the final settlement agreement has been reached or the parties are unable to reach an agreement, all notes must be turned over to the mediator for disposal.

   c. Final Agreement. The mediator will provide a copy of the final agreement or notice of failure to reach an agreement to the complainant, respondent, and the LWDA EO Officer within (sixty) 60 days from the date of the complainant's election to participate in ADR.

   d. Failure to Reach an Agreement. If the parties fail to reach an agreement, the LWDA EO Officer will submit a Notice of Final Action to the parties within five

(5) days of receipt of the notification from the mediator of the result of the mediation. The Notice of Final Action shall provide a copy of the agreement and indicate that the parties failed to reach an agreement on some or all of the issues, as applicable. The Notice shall also advise the complainant of his or her right to file a complaint with the Director of the CRC within thirty (30) days.

e. Breach of Agreement. A party to any agreement reached under ADR may file a complaint with the Director of CRC in the event the agreement is breached.

f. Non-Breaching Party Complaint. The non-breaching party may file a complaint with the Director of CRC within thirty (30) days from the date on which the non-breaching party learns of the breach.

g. Evaluation of Complaint. The Director of CRC must evaluate the circumstances to determine whether the agreement has been breached. If it is determined that the agreement has been breached, the complainant may file a complaint with CRC based upon their original allegation(s) and the Director of CRC will waive the time deadline for filing the complaint.

h. Mediation Files. The LWDA EO Officer is responsible for maintaining a record of the cases submitted for mediation and a copy of each mediation agreement.

i. Alternative Fact-finding/Investigation Method. Local areas may elect to offer complainants the alternative of having the complaint heard on the record before an impartial administrative law judge within sixty (60) days of the complainants' election for a full fact-finding/investigation. This process is subject to the review and approval of the State WIOA EO Officer.

4. Notice of Final Action

a. Upon completion of its investigation and review of the complaint, the LWDA EO Officer must file a Notice of Final Action within ninety (90) days of receipt of the complaint. The notice must address each issue raised in the complaint with an explanation of the reasons underlying the decision or provide a description of the way the parties resolved the issue. All Notices of Final Action must be reviewed by the State WIOA EO Officer to ensure a thorough investigation and decision is supported by the findings of fact.

   The notice must also advise the complainant that they have the right to file a complaint with the Director of CRC within thirty (30) days from the date on which the notice is issued if the complainant is dissatisfied with the decision. The decision will be mailed to the complainant and respondent by certified mail.

b. Within ninety (90) days, the LWDA EO Officer may, upon a preliminary investigation, offer a resolution of the complaint to the complainant. If the complainant accepts the resolution, the LWDA EO Officer must file a Notice of Final Action and notify the complainant of their right to file a complaint with the Director of the CRC and inform the complainant that their right must be exercised within thirty (30) days from the date on which the notice is issued if the complainant is dissatisfied with the decision. The decision will be mailed to the complainant and respondent by certified mail.

c. If the complainant has not received a Notice of Final Action within ninety (90) days of filing the complaint, the complainant or their representative may, within thirty (30) days of the expiration of the 90-day period, file a complaint with the Director of the CRC provided, however, that the complaint must be filed with the Director of CRC within one-hundred twenty (120) days of the date on which the complaint was filed with LWDA EO Officer.

VI. INTIMIDATION AND RETALIATION PROHIBITED

A. A recipient must not discharge, intimidate, retaliate, threaten, coerce or discriminate against any person because such person has filed a complaint alleging a violation of the EO and nondiscrimination provisions of WIOA; opposed a practice prohibited by the EO and nondiscrimination provisions of WIOA; furnished information to, assisted or participated in any manner in, an investigation, review, hearing or any other activity related to administration of, or exercise of authority under, or privilege secured by, the EO and nondiscrimination provisions of WIOA; or exercised authority under or privileges secured by the EO and nondiscrimination provisions of WIOA.

B. The sanctions and penalties contained in Section 188(b) of WIOA may be imposed against any recipient that engages in any such retaliation or intimidation, or fails to take appropriate steps to prevent such activity.

VII. DATA AND INFORMATION COLLECTION

A. Each recipient will collect such data and maintain such records, in accordance with procedures prescribed by the Director of the CRC, as the Director of the CRC finds necessary to determine whether the recipient has complied or is complying with the EO and nondiscrimination provisions of WIOA.

B. Such records must include, but are not limited to, records on applicants, registrants, eligible applicants/registrants, participants, terminees, employees and applicants for employment.

C. Each recipient must record the race/ethnicity, sex, age, and where known, disability status of every applicant, registrant, eligible applicant/registrant, participant, terminee, applicant for employment and employee.

D. Such information will be stored in such a manner that ensures confidentiality and must be used only for the purposes of record keeping and reporting; determining eligibility, where appropriate, for WIOA-financially assisted programs or activities; determining the extent to which the recipient is operating its WIOA-financially assisted program or activity in a nondiscriminatory manner; or other use authorized by law.

VIII. NOTIFICATION OF COMPLAINTS/LAWSUITS

A. Each grant applicant and recipient will promptly notify the State WIOA EO Officer and the Director of CRC of any administrative enforcement actions or lawsuits filed against it alleging discrimination on the ground of race, color, religion, sex, national origin, age, disability, political affiliation or belief, and for beneficiaries only, citizenship or participation in WIOA Title I-financially assisted program or activity. The requirements for the notice are set forth in 29 CFR Section 38.42.

B. Each LWDA EO Officer will maintain a log of complaints filed with it that allege discrimination on the ground of race, color, religion, sex, national origin, age, disability, political affiliation or belief, or for any beneficiary, because of that beneficiary's citizenship status as a lawfully admitted immigrant authorized to work in the United States or for participation in WIOA Title I-financially assisted program or activity. The log will include the name and address of the complainant; the ground of the complaint; a description of the complaint; the date the complaint was filed; the disposition and date of disposition of the complaint; and other pertinent information. Information that could lead to identification of a particular individual as having filed a complaint must be kept confidential.

IX. RETENTION OF RECORDS

A. Each recipient will maintain, for a period of not less than three (3) years from the close of the applicable program year, applicant, registrant, eligible applicant/registrant, participant, terminee, employee and applicant for employment records, and such other records as are required by WIOA or the State WIOA EO Officer.

B. Each recipient will maintain records regarding complaints and actions taken thereunder for a period of not less than (3) three years from the date of resolution of the complaint.

X. ASSURANCE

Every grant, cooperative agreement or contract for financial assistance for funding under Title I of WIOA, as described in 29 CFR Section 38.25, must contain the following assurance:

EO AND NONDISCRIMINATION ASSURANCE:

A. As a condition to the award of financial assistance from NYSDOL under Title I of WIOA, the grant applicant assures that it will comply fully with the EO and nondiscrimination provisions of the following laws:

1. WIOA Section 188 which prohibits discrimination against all individuals in the United States on the basis of race, color, religion, sex (including pregnancy, childbirth, and related medical conditions, transgender status, and gender identity), national origin (including limited English proficiency (LEP) individuals), age disability, or political affiliation or belief, or against beneficiaries on the basis of either citizenship status or participation in any WIOA Title I-financially assisted program or activity;
2. Title VI of the Civil Rights Act of 1964, as amended, which prohibits discrimination on the basis of race, color, and national origin;
3. Section 504 of the Rehabilitation Act of 1973, as amended, which prohibits discrimination against qualified individuals with disabilities;

4. The Age Discrimination Act of 1975, as amended, which prohibits discrimination on the basis of age; and
5. Title IX of the Education Amendments of 1972, as amended, which prohibits discrimination on the basis of sex in educational programs.

B. The grant applicant also assures that it will comply with 29 CFR Part 38 and all other regulations implementing the laws listed above. This assurance applies to the grant applicant's operation of the WIOA Title I-financially assisted program or activity, and to all agreements the grant applicant makes to carry out the WIOA Title I-financially assisted program or activity. The grant applicant understands that the United States has the right to seek judicial enforcement of this assurance.

XI. SUPPLEMENTAL PUBLICATIONS

LWDA EO Officers may publish supplemental procedures for use by recipients and for internal use to coordinate responsibilities of other programs.

XII. METHOD OF RESOLUTION FOR DISPOSITION OF COMPLAINTS ON A PARTNER

These are procedures for handling complaints filed against a Career Center system partner assisted by a federally-funded grant making agency* other than USDOL. There are two (2) types of complaints that may fall under this category:

1. Joint Jurisdiction

Where the complaint alleges discrimination on a federally-funded partner on a basis of race, color, national origin, disability, sex, age or retaliation that is prohibited by Section 188 of WIOA and by civil rights laws, the complaint must be referred to that agency's EO Officer for processing under that agency's procedures. The complainant must be notified about the referral.

* Examples of other Federally-Funded Grant making Agencies:

- Department of Health and Human Services (HHS)
- Department of Education (DOE)
- Department of Housing and Urban Development (HUD)
- Department of Agriculture (DOA)
- Department of Transportation (DOT)

2. Sole Jurisdiction

When the complaint alleges partner discrimination on the basis of religion, political affiliation or belief, citizenship, and/or participation in WIOA Title I, the complaint must be retained and processed under these complaint procedures.

LOCAL WORKFORCE DEVELOPMENT AREA (LWDA) DESIGNATED EQUAL OPPORTUNITY (EO) OFFICER INFORMATION FORM

Directions:

1. Complete this form and save it as a new document.
2. Use the name of the LWDA as the name of the new document.
3. Provide an organizational chart that shows the LWDA EO Officer's location in the LWDA hierarchy.
4. Send this form and organizational chart to DEOD@labor.ny.gov.

Local Workforce Development Board (LWDB) Director:

Name of LWDA EO Officer:

Position/Title:

Business address:

E-mail address:

Business Telephone Number:

Business Fax Number:

Telecommunications Device for the Deaf (TDD)/Teletype (TTY) Telephone Number:

The LWDA EO Officer reports to:

Position/Title:

Type and level of training the designee has received (if applicable):